RECEIVED AND FILED
CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, P.R.
2012 JUL 12 PM 1:55

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

[1] RAMON ANTONIO DEL ROSARIO-PUENTE,
aka "Toño Leña,"
aka "El Maestro,"
aka "El Charly,"
aka "El Palo,"
aka "El Bate,"
aka "El Tronco,"
aka "Muelú,"
aka "El Frances,"

Defendant.

CRIM. NO. 10-219 (JAG)

PLEA AGREEMENT

[Pursuant to Rule 11(c)(1)(A) & (C) FRCP]

TO THE HONORABLE COURT:

COMES NOW the United States of America, by and through its attorneys, Rosa Emilia Rodriguez-Velez, United States Attorney for the District of Puerto Rico, Jose Ruiz-Santiago, Assistant United States Attorney, Criminal Division Chief, Timothy Henwood, Assistant United States Attorney, Deputy Chief of the Narcotics Unit, and Sean Torriente, Assistant United States Attorney for said District, and Ramon Antonio Del Rosario-Puente, defendant, by and through defendant's counsel, Joaquin Perez, Esquire, pursuant to Rule 11(c)(1)(A) & (C) of the Federal Rules of Criminal Procedure, and state to this Honorable Court, that they have reached an agreement, the terms and conditions of which are as follows:

RADR

1. COUNT(S) TO WHICH DEFENDANT PLEADS GUILTY

The defendant agrees to plead guilty to Count TWO as charged in the Indictment, charging the defendant with intentionally combining, conspiring, and agreeing with others to knowingly and intentionally import into the customs territory of the United States from the Dominican Republic and elsewhere one kilogram or more of heroin and 5 kilograms or more of cocaine, in violation of Title 21, United States Code, Sections 952, 960 and 963.

2. STATUTORY PENALTIES

The defendant understands that the penalty for count TWO is as follows: a term of imprisonment of not less than ten (10) years and not more than life; a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 United States Code, or $4,000,000.00, and a term of supervised release of at least five (5) years. The Court must impose a mandatory penalty assessment of one hundred dollars ($100.00).

The defendant agrees that any fine or restitution imposed by the Court will be due and payable immediately. Further, the defendant acknowledges that parole has been abolished.

3. APPLICABILITY OF UNITED STATES SENTENCING GUIDELINES

The defendant is aware that pursuant to the decision issued on January 12, 2005, by the Supreme Court of the United States, in the case of United States v. Booker, 543 U.S. 220 (2005), the Sentencing Guidelines are no longer mandatory and must be considered effectively advisory.

4. SPECIAL MONETARY ASSESSMENT

The defendant agrees to pay a special monetary assessment of one hundred dollars ($100.00) per count of conviction to be deposited in the Crime Victim Fund, pursuant to Title 18, United States Code, Section 3013(a).

RAdR

5. FINES AND RESTITUTION

The defendant is aware that the Court may, pursuant to Section 5E1.2 of the Sentencing Guidelines Manual, order the defendant to pay a fine sufficient to reimburse the government for the costs of any imprisonment, probation or supervised release ordered and also that the Court may impose restitution. As part of this plea agreement, the defendant agrees to execute a financial statement to the United States (OBD Form 500). The United States will make no recommendations as to the imposition of fines or restitution.

6. RULE 11(c)(1)(C) WARNINGS

The defendant is aware that, pursuant to Federal Rules of Criminal Procedure 11(c)(1)(C), the Court may accept or reject the plea agreement, or may defer its decision as to its acceptance or rejection until it has considered the pre-sentence report. If the Court rejects the plea agreement, the court shall, on the record, inform the parties of this fact, and afford the defendant an opportunity to withdraw the guilty plea and advise the defendant that if the defendant persists in a guilty plea, the disposition of the case may be less favorable to the defendant than that contemplated in the plea agreement. In addition, as part of the terms and conditions of this plea agreement, the parties agree that, should the court reject the plea agreement, the United States reserves the right to withdraw from its obligations under the same.

7. UNITED STATES RESERVATION OF RIGHTS

The United States reserves the right to carry out its responsibilities under guidelines sentencing. Specifically, the United States reserves the right: (a) to bring its version of the facts of this case including its file and any investigative files to the attention of the probation office in connection with that office's preparation of a presentence report; (b) to dispute sentencing factors or facts material to sentencing; and (c) to seek resolution of such factors or facts in

RAdR

conference with opposing counsel and the probation office.

8. STIPULATION AS TO THE AMOUNT OF NARCOTICS

The United States of America and defendant stipulate for purposes of this plea agreement that this defendant shall be accountable for conspiring to import at least 50 but less than 150 kilograms of cocaine.

9. SENTENCING GUIDELINE CALCULATIONS

The United States and the defendant agree as to the following Sentencing Guidelines calculations:

GUIDELINES CALCULATION	
GUIDELINE SECTION	**PLEA OFFER**
Base Offense Level (At least 50 but less than 150 kilograms of cocaine)	36
Acceptance of Responsibility	-3
Total Offense Level	33
Criminal History Category	I
Potential Guideline Range *(Assuming Criminal History Category I)*	135-168 months

10. SENTENCE RECOMMENDATION

The parties agree to recommend that the defendant be sentenced to a term of imprisonment within the applicable guideline range. The defendant reserves the right to request a sentence at the lower end of the applicable guideline range. The United States reserves the right to request a sentence at the upper end of the applicable guideline range. The parties agree to recommend that the defendant receive credit for the time he served in custody in the Dominican Republic pending his extradition.

11. FURTHER ADJUSTMENTS, DEPARTURES OR VARIANCE

The United States and the defendant agree that **no further adjustments or departures**

RAdR

to the defendant's total adjusted base offense level and **no variance sentence** under 18 USC § 3553 **shall be sought by the defendant**. The parties agree that any request by the defendant for an adjustment or departure will be considered a material breach of this plea agreement.

12. NO STIPULATION AS TO CRIMINAL HISTORY CATEGORY

The parties do not stipulate any assessment as to the defendant's Criminal History Category.

13. DISMISSAL OF REMAINING COUNTS

The United States will move to dismiss the remaining counts of the indictment at the time of sentencing.

14. SATISFACTION WITH COUNSEL

The defendant represents to the Court to be satisfied with counsel, Joaquin Perez, Esquire, and indicates that counsel has rendered effective legal assistance.

15. RIGHTS SURRENDERED BY DEFENDANT THROUGH GUILTY PLEA

Defendant understands that by entering into this agreement, defendant surrenders certain rights as provided in this agreement. Defendant understands that the rights of criminal defendants include the following:

a. If the defendant had persisted in a plea of not guilty to the charges, defendant would have had the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if the defendant, the United States and the judge agree.

b. If a jury trial is conducted, the jury would be composed of twelve lay persons selected at random. The defendant and the defendant's attorney would assist in selecting the jurors by removing prospective jurors for cause where actual bias or other disqualification is

RAdR

shown, or by removing prospective jurors without cause by exercising peremptory challenges. The jury would have to agree, unanimously, before it could return a verdict of either guilty or not guilty. The jury would be instructed that the defendant is presumed innocent, that it could not convict the defendant unless, after hearing all the evidence, it was persuaded of the defendant's guilt beyond a reasonable doubt, and that it was to consider each charge separately.

c. If a trial is held by the judge without a jury, the judge would find the facts and, after hearing all the evidence and considering each count separately, determine whether or not the evidence established the defendant's guilt beyond a reasonable doubt.

d. At a trial, the United States would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those witnesses and defendant's attorney would be able to cross-examine them. In turn, the defendant could present witnesses and other evidence on defendant's own behalf. If the witnesses for the defendant would not appear voluntarily, defendant could require their attendance through the subpoena power of the Court.

e. At a trial, the defendant could rely on the privilege against self-incrimination to decline to testify, and no inference of guilt could be drawn from the defendant's refusal to testify. If the defendant desired to do so, the defendant could testify on the defendant's own behalf.

16. STATEMENT OF FACTS

The accompanying Statement of Facts signed by the defendant is hereby incorporated into this Plea Agreement. Defendant adopts the Statement of Facts and agrees that the facts therein are accurate in every respect and, had the matter proceeded to trial, that the United States would have proven those facts beyond a reasonable doubt. Further, the defendant agrees that said statement of facts will be used by the sentencing judge in determining the application of any

RAdR

sentencing guidelines in the instant case.

17. LIMITATIONS OF PLEA AGREEMENT

Defendant is fully aware that the Court is not bound by this Plea Agreement, including but not limited to: advisory sentencing guidelines calculations, stipulations, and/or sentence recommendations. In addition, this plea agreement binds only the United States Attorney's Office for the District of Puerto Rico and the defendant; it does not bind any other federal district, state or local authorities.

18. ENTIRETY OF PLEA AGREEMENT

This written agreement and the supplement constitutes the complete Plea Agreement between the United States, the defendant, and the defendant's counsel. The United States has made no promises or representations except as set forth in writing in this plea agreement and deny the existence of any other term and conditions not stated herein.

19. AMENDMENTS TO PLEA AGREEMENT

No other promises, terms or conditions will be entered unless in writing and signed by all parties.

20. WAIVER OF APPEAL

The defendant hereby agrees that if this Honorable Court accepts this plea agreement and sentences the defendant according to its terms, conditions and recommendations, the defendant waives and surrenders the right to appeal the judgment and sentence in this case.

RAdR

21. VOLUNTARINESS OF GUILTY PLEA

The defendant acknowledges that no threats have been made against the defendant and that the defendant is pleading guilty freely and voluntarily because the defendant is guilty.

ROSA EMILIA RODRIGUEZ-VELEZ
United States Attorney

JOSE RUIZ-SANTIAGO
First Assistant United States Attorney
Dated: 5/17/12

TIMOTHY HENWOOD
Assistant United States Attorney
Deputy Chief, Narcotics Unit
Dated: 5-17-12

SEAN TORRIENTE
Assistant United States Attorney
Dated: 5-17-12

RAMON DEL ROSARIO-PUENTE
Defendant
Dated: 7/12/12

JOAQUIN PEREZ, Esq.
Counsel for Defendant
Dated: 7/12/12

RAdR

ACKNOWLEDGMENT

I have consulted with my counsel and fully understand all of my rights with respect to the Indictment pending against me. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines, Policy Statements, Application, and Background Notes which may apply in my case. I have read this Plea Agreement and carefully reviewed every part of it with my attorney. I fully understand this agreement and I voluntarily agree to it.

7/12/12
Date

RAMON DEL ROSARIO-PUENTE
Defendant

I am the attorney for the defendant. I have fully explained to the defendant his rights with respect to the pending Indictment. Further, I have reviewed the provisions of the Sentencing Guidelines, Policy Statements, Application, and Background Notes, and I have fully explained to the defendant the provisions of those guidelines which may apply in this case. I have carefully reviewed every part this Plea Agreement with the defendant. To my knowledge, the defendant is entering into this agreement voluntarily, intelligently and with full knowledge of all consequences of defendant's plea of guilty.

7/12/12
Date

JOAQUIN PEREZ, Esq.
Counsel for the Defendant

GOVERNMENT'S VERSION OF THE FACTS

In conjunction with the submission of the accompanying Plea Agreement in this case, the United States of America submits the following statement setting forth the United States' version of the facts leading to the defendant's acceptance of criminal responsibility for defendant's violation of Title 21, United States Code, Sections 963, 952(a), and 960. If this matter had proceeded to trial, the United States would have presented evidence through live testimony of federal agents and foreign law enforcement personel, crime lab analysts, confidential informants, cooperating witnesses, physical evidence, consensual recordings, court authorized intercepted communications and documentary evidence, which would have proven beyond a reasonable doubt the following:

From in or about the year 2000 through and including June 2010, in South America, the Dominican Republic, the District of Puerto Rico and elsewhere, defendant and others agreed to illegally import cocaine into Puerto Rico and the continental United States. Defendant willfully joined the conspiracy, intended that the conspiracy succeed, and never attempted to remove himself from it. For purposes of this plea agreement, defendant is being held responsible for conspiring to import at least 50 kilograms but less than 150 kilograms of cocaine.

During the time of the conspiracy, U.S. and Dominican agents and confidential sources recorded defendant and his co-conspirators in the Dominican Republic make arrangements to transport cocaine from South America to the Dominican Republic in order to further import the narcotics into Puerto Rico and the continental United States. Law enforcement officials in the Dominican Republic seized some of the transported narcotics, which crime lab analysis confirmed was in fact cocaine.

Full discovery was provided to the defense.

RAMON DEL ROSARIO-PUENTE
Defendant
Dated:

SEAN TORRIENTE
Assistant United States Attorney
Dated: 5-17-12

JOAQUIN PEREZ, Esq.
Counsel for Defendant
Dated: 7/12/12